

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application

Inventor(s): ONCHUEN (DARYN) LAU et al.

SC/Serial No.: Not-yet-assigned

Confirm. No.: Not-yet-assigned

Filed: Herewith

Title: VARIABLY DELAYABLE TRANSMISSION OF
PACKETS BETWEEN INDEPENDENTLY CLOCKED
SOURCE, INTERMEDIATE, AND DESTINATION
CIRCUITS WHILE MAINTAINING ORDERLY AND
TIMELY PROCESSING IN ONE OR BOTH OF THE
INTERMEDIATE AND DESTINATION CIRCUITS

PATENT APPLICATION

Art Unit:

Examiner:

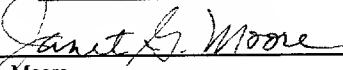
Customer No. 23910

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"Express Mail" mailing label number: EV042288631US

Date of Mailing: November 27, 2001

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Janet G. Moore

Signature Date: November 27, 2001

DECLARATION BY JANET G. MOORE IN SUPPORT OF REQUESTED FILING DATE

Commissioner for Patents
Washington, DC 20231

Sir:

I am an employee of the law firm of Fliesler, Dubb, Meyer & Lovejoy LLP. To the best of my knowledge and belief, the enclosed and still-sealed Express Mail envelope and its contents have been in my control and possession from the time reported below at which I took it to the U.S. Postal Service for deposit and the present time at which I am re-depositing said materials.

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Upon this occurring, I hand-carried the enclosed package back to my office and informed the responsible attorney about what had happened. The attorney instructed me to keep the enclosed envelope sealed and untouched so that its state and contents at the time of my attempted deposit would be preserved. I have followed these instructions.

Pursuant to the notice on the Internet at www.uspto.gov/september11/uspsmaildisrup.htm, which is entitled **Suspension of the "Express Mail" Service of United States Postal Service for mail addressed to ZIP Codes 202xx through 205xx**, I will now be attempting to re-deposit the enclosed item in a surrounding Express Mail envelope addressed to Box PATENT APPLICATION, U.S. Patent and Trademark Office, P.O. Box 2327, Arlington, VA 22202.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: Nov. 27, 2001

Janet G. Moore

Janet G. Moore
Legal Secretary

FLIESLER DUBB MEYER & LOVEJOY LLP
Four Embarcadero Center, Fourth Floor
San Francisco, California 94111-4156
Telephone: (415) 362-3800

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PATENT APPLICATION

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**DECLARATION FOR PATENT APPLICATION
AND CONSENT RE POWER OF ATTORNEY**

As a below named inventor, I hereby declare that my residence, mailing address and citizenship are as stated below next to my name. I believe that I am the original, first and sole inventor (if one name is listed below), first and joint inventor (if plural names are listed below) of the subject matter which is disclosed and claimed and for which a patent is solicited through the filing of the application entitled:

**VARIABLY DELAYABLE TRANSMISSION OF PACKETS BETWEEN INDEPENDENTLY
CLOCKED SOURCE, INTERMEDIATE, AND DESTINATION CIRCUITS WHILE
MAINTAINING ORDERLY AND TIMELY PROCESSING IN ONE OR BOTH
OF THE INTERMEDIATE AND DESTINATION CIRCUITS**

the specification of which (check applicable ones):

is filed herewith;

was filed with the above-identified "Filed" date and "SC/Serial No."

is amended through the Preliminary Amendment filed herewith.

I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment(s) referred to above. I acknowledge the duty to disclose information which is material to the examination of the application in accordance with Title 37, Code of Federal Regulations, §1.56.

Consent re Power of Attorney

Given that this patent application is obligated to be assigned, I (we) consent to the appointment by the Assignee of Gideon Gimlan, Reg. No. 31,955; and other attorneys of FLIESLER DUBB MEYER & LOVEJOY LLP, located at Four Embarcadero Center, Fourth Floor, San Francisco, California 94111, telephone (415) 362-3800; as the prosecuting attorneys, with full power of substitution and revocation, to prosecute this application and transact all business in the United States Patent and Trademark Office connected herewith.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

(1) Full name of sole
or first inventor: ONCHUEN (DARYN) LAU

(1) Residence: 19381 San Marcos Road
Saratoga, California 95070

(1) Post Office Address: Same

(1) Citizenship: United States of America

(1) Inventor's signature: OnChuen Daryn Lau

(1) Date: 11/20/01

(2) Full name of sixth
joint inventor: MATTHEW D. ORNES

(2) Residence: 1713 Chadbourne Avenue
Madison, Wisconsin 53705

(2) Post Office Address: Same

(2) Citizenship: United States of America

(2) Inventor's signature: Matthew D. Ornes

(2) Date: 15 Nov 2001

(3) Full name of second
joint inventor: CHRIS D. BERGEN

(3) Residence: 22401 Santa Paula Avenue
Cupertino, California 95014

(3) Post Office Address: Same

(3) Citizenship: United States of America

(3) Inventor's signature: Chris Bergen

(3) Date: Nov 20, 2001

(4) Full name of third
joint inventor: ROBERT J. DIVIVIER

(4) Residence: 1244 Washoe Drive
San Jose, California 95120

(4) Post Office Address: Same

(4) Citizenship: United States of America

(4) Inventor's signature: Robert J. Divivier

(4) Date: 11/15/01

(5) Full name of fourth
joint inventor: GENE K. CHUI

(5) Residence: 4868 Westmont Avenue
Campbell, California 95008

(5) Post Office Address: Same

(5) Citizenship: United States of America

(5) Inventor's signature: DKC

(5) Date: 11/20/2001

(6) Full name of fifth
joint inventor: CHRISTOPHER I.W. NORRIE

(6) Residence: 2358 Warfield Way #C
San Jose, California 95122

(6) Post Office Address: Same

(6) Citizenship: New Zealand

(6) Inventor's signature: Christopher I W Norrie

(6) Date: Nov 15, 2001

(7) Full name of seventh joint inventor: KING-SHING (FRANK) CHUI

(7) Residence: 734 Inverness Way
Sunnyvale, California 94087

(7) Post Office Address: Same

(7) Citizenship: United States of America

(7) Inventor's signature: *King Shing Chui*

(7) Date: 11-20-2001

Title 37, Code of Federal Regulations, § 1.56

SECTION 1.56. DUTY TO DISCLOSE INFORMATION MATERIAL TO PATENTABILITY

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§1.97(b)-(d) and 1.98.* However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

(i) Opposing an argument of unpatentability relied on by the Office; or

(ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

* §§1.97(b)-(d) and 1.98 relate to the timing and manner in which information is to be submitted to the Office.
